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Attorneys for Defendants

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

DONALD H. PUTNAM, an individual,

Plaintiff,

v.

PUTNAM LOVELL GROUP NBF  
SECURITIES, INC., a Delaware  
corporation, and NATIONAL BANK OF  
CANADA, a Canadian chartered bank,  
NATIONAL BANK FINANCIAL, INC., a  
Quebec corporation; and DOES 1-20,  
inclusive,

Defendants.

CASE NO. C 05 1330 CW

**CONFIDENTIALITY STIPULATION  
AND ORDER**

IT IS HEREBY STIPULATED AND AGREED that the following procedures  
shall govern the production and use of confidential documents, testimony and other such  
information:

1  
2 1. Any document, testimony, information or thing, or portion thereof, produced by  
3 any party may be designated as “Confidential” (such information is referred to hereinafter as  
4 “Confidential Information”) by, in the case of documents or things, stamping the legend  
5 “CONFIDENTIAL” thereon, or in the case of testimony, by any one of the following means:  
6 (a) stating orally on the record of a deposition that certain information, testimony or exhibits are  
7 “Confidential” or (b) sending written notice designating such information, testimony or exhibits  
8 as “Confidential” within seven days of receipt of the deposition transcript.  
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10 2. Any document, testimony, information or thing, or portion thereof, produced by  
11 any party which the producing party believes in good faith contains highly sensitive business,  
12 financial or personal information, and which is information that the producing party would  
13 normally not reveal to third parties except in confidence or has undertaken with others to maintain  
14 in confidence, and is more sensitive than Confidential Information, may be designated as  
15 “Attorneys’ Eyes Only” (such information is referred to hereinafter as “Attorneys’ Eyes Only  
16 Information”) by, in the case of documents or things, stamping the legend “ATTORNEYS’ EYES  
17 ONLY” thereon, or in the case of testimony, by any one of the following means: (a) stating  
18 orally on the record of a deposition that certain information, testimony or exhibits are “Attorneys’  
19 Eyes Only” or (b) sending written notice designating such information, testimony or exhibits as  
20 “Attorneys’ Eyes Only” within seven days of receipt of the deposition transcript.  
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22 3. Any document, testimony, information or thing, or portion thereof, produced by  
23 any party in an electronic format, which cannot be designated by stamping the appropriate legend,  
24 shall be deemed to be “Confidential”, or if the document, testimony, information or thing, or  
25 portion thereof satisfy the criteria set forth in paragraph 2 above, may be designated by the  
26 producing party as “Attorneys’ Eyes Only” by sending written notice designating such document,  
27 testimony, information or thing as “Attorneys’ Eyes Only.”  
28

1           4. All Confidential Information and Attorneys' Eyes Only Information shall be kept  
2 in the offices, and custody, of the parties' counsel, subject to the disclosure permitted under  
3 paragraphs 4 and 5 below. All Confidential Information and Attorneys' Eyes Only Information  
4 shall be used by the parties solely for the purposes of preparing for and in this action and not for  
5 any other purpose, action, case or proceeding, and only as provided in this Stipulation and Order.  
6 In particular, no Confidential Information or Attorneys' Eyes Only Information shall be disclosed  
7 by a receiving party to Ian Brimecome, his attorneys or any person representing him.  
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9           5. Confidential Information, including information derived therefrom, shall not be  
10 disclosed in any manner to any person or entity except:

- 11           (a) The parties;
- 12           (b) Counsel of record in this action;
- 13           (c) Consultants or experts retained by counsel in connection with this action,  
14           provided that such persons are first given this Stipulation and Order and execute  
15           the Agreement annexed hereto (which Agreement shall be retained by counsel);  
16           (d) Any witness called to give testimony in this action, provided that such  
17           witnesses are first given this Stipulation and Order and execute the Agreement  
18           annexed hereto (which Agreement shall be retained by counsel calling such  
19           witnesses), or provided that such witnesses agree, under oath, to be bound by  
20           this Stipulation and Order;  
21           (e) Court reporters or stenographers employed in connection with this action;
- 22           (f) The Court; or
- 23           (g) Otherwise as required by law.

24           6. Attorneys' Eyes Only Information, including information derived therefrom, shall  
25 not be disclosed in any manner to any person or entity except:  
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- (a) Counsel of record in this action;
- (b) Consultants or experts retained by counsel in connection with this action, provided that such persons are first given this Stipulation and Order and execute the Agreement annexed hereto (which Agreement shall be retained by counsel);
- (c) The author or recipient, and in the case of an agreement, the parties to the agreement;
- (d) Any person upon written consent of the party which designated the Attorneys' Eyes Only Information, provided that such persons are first given this Stipulation and Order and execute the Agreement annexed hereto (which Agreement shall be retained by counsel);
- (e) Court reporters or stenographers employed in connection with this action;
- (f) The Court; or
- (g) Otherwise as required by law.

7. The failure of any party to object to the designation of information as "Confidential" or "Attorney's Eyes Only" at the time of its designation shall not be deemed a waiver of that party's right to challenge the propriety of such designation at any time thereafter. Should counsel object to the designation by a party of any Discovery Material as "Confidential" or "Attorney's Eyes Only," counsel shall notify the designating party's counsel of the objections, and counsel shall promptly confer in an attempt to resolve the matter. If the matter remains unresolved, objecting counsel may then apply to the Court for a determination of whether the designation should be removed. The designating party bears the burden of proving that the information at issue is properly designated as "Confidential" or "Attorneys' Eyes Only." The document shall be treated as designated unless and until such a motion is presented, and during the pendency of any such motion.

8. Documents containing Confidential Information or Attorneys' Eyes Only Information, including briefs, which are submitted to the Court shall: (a) if filed with the Clerk, be filed under seal, in a sealed envelope bearing the appropriate legend indicating that such materials are confidential and are being filed under seal pursuant to this Stipulation and Order, and a redacted copy of such document without the Confidential Information or Attorneys' Eyes Only Information shall be filed publicly, and (b) if delivered to the Court's chambers, be delivered in a sealed envelope bearing an appropriate legend.

9. Within 30 days after the termination of this action, each party shall return all Confidential Information and Attorneys' Eyes Only Information, and any copies thereof, to the party which produced the Confidential Information and Attorneys' Eyes Only Information, or destroy the Confidential Information or Attorneys' Eyes Only Information, and any copies thereof.

10. Nothing in this Stipulation and Order shall (i) operate as an admission that any particular document, testimony, information or thing is, or is not, confidential in any subsequent proceeding; (ii) operate to require the production of information, documents or things that are privileged or otherwise protected from discovery; or (iii) affect any party's right to object to any discovery request.

Dated: August 10, 2006

TORYS LLP

By: /s/ Charles E. Dorkey III  
Charles E. Dorkey III

Attorneys for Defendants

Dated: August 10, 2006

KEKER & VAN NEST, LLP

By: /s/ Christopher C. Kearney  
Christopher C. Kearney

Attorneys for Plaintiff

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SO ORDERED; **BUT SEE LOCAL RULE 79-5.**

/s/ CLAUDIA WILKEN

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Hon. Claudia Wilken  
United States District Judge

